

BEFORE THE STATE OF MONTANA
 SUPERINTENDENT OF PUBLIC INSTRUCTION

JOSEPH X. SHUTAK)	
Appellant,)	OSPI 44-83
)	
vs.)	<u>DECISION AND ORDER</u>
)	
TRUSTEES OF PONDERA)	
COUNTY SCHOOL DISTRICT)	
#1, HEART BUTTE,)	
Respondent.)	

This matter arises from an appeal of a County Superintendent's Decision dated April 11, 1983 which determined that the nonrenewal of a nontenured teacher is not a controversy within the meaning of 20-3-210 MCA or under the definition of controversy found in Section 10.6.102 ARM.

This matter was briefed by the Appellant and submitted following an Order dated August 25, 1983.

In the Appellant's brief, reference is made to Paun v. Board of Trustees, Chouteau County School District #56, Chouteau County, Montana, OSPI 31-82 and Leonard Murphy v. Board of Trustees, Hays-Lodge Pole Public Schools, Blaine County #50, OSPI 27-82. Those matters were decided by this State Superintendent on May 23, 1983.

The attorney for the Appellant was mailed a copy of those decisions and is thus clearly aware of the position this State Superintendent has taken with regard to the main issue presented in this appeal.

For the benefit of the teacher this State Superintendent encloses and attaches to this decision those prior decisions. This State Superintendent also will be quoting from that combined order.

As a matter of law, this State Superintendent has held that the reason advanced by the board of trustees in this instance is not constitutionally impermissible. Since

it was sufficient as a matter of law, there can be no controversy merely because the Appellant disagrees with the law. This State Superintendent has cited numerous state cases as well as federal cases dealing with the issue of nonrenewal of nontenured teachers in Montana. The issue has been exhaustively reviewed by the courts, and the reason "to find a better teacher" is legally sufficient under Section 20-4-206 MCA. As in the other cases Paun and Murphy, supra, the County Superintendent here did everything in a proper manner. The appeal was received, a determination was made as to whether or not there was jurisdiction and a decision was rendered.

School boards have the legal responsibility as well as a moral obligation to their communities to put the best available teacher in the classroom despite objections from teachers and the unpleasantness that this task often produces. Since all legal duties and rights have been met there is no need for further extensive and expensive legal proceedings. School monies and resources are limited and should be primarily directed toward education.

The decision of the County Superintendent is hereby affirmed and those reasons advanced by this State Superintendent's May 23, 1983 decisions in causes OSPI 31-82 and OSPI 27-82, a copy of which are attached hereto and are incorporated by this reference, are provided herein.

DATED this 27th day of October, 1983.